

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

USDA
07/13/2001

In re:

C. L. Contreras Produce, Inc.,

Respondent

) PACA Docket No. D-01-0009
)
)
)
)

Decision Without Hearing
by Reason of Default

2002 AUG -6 PM 4:04

RECEIVED

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended, (7 U.S.C. § 499a *et seq.*) hereinafter referred to as the "PACA", instituted by a Complaint filed on February 28, 2001, by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture. The complaint was served on Respondent by certified mail on March 3, 2001. Respondent has failed to file an answer to the complaint.

The Complaint alleges that during the period September 1997 through March 1998, C. L. Contreras Produce, Inc., (hereinafter "Respondent") failed to make full payment promptly to 10 sellers of the agreed purchase prices in the total amount of \$181,093.38 for 78 lots of perishable agricultural commodities, which it purchased, received and accepted in interstate and foreign commerce. The Complaint also noted that on March 6, 1998, Respondent filed a voluntary petition in the United States Bankruptcy Court, Southern District of Texas pursuant to Chapter 7 of the Bankruptcy Code (11 U.S.C. § 701 *et seq.*), designated Case No. 98-32553. Complainant requested that a finding be made that Respondent committed willful, flagrant and repeated violations of Section 2(4) of the Act (7 U.S.C. § 499(4)), and that such findings be published.

On March 6, 1998, Respondent filed a Voluntary Petition pursuant to Chapter 7 of the Bankruptcy Code (11 U.S.C. § 701 *et seq.*) in the United States Bankruptcy Court, Southern District of Texas. This petition has been designated Case Number 98-32553. According to

Schedule F of the Petition, Respondent admits that all of the 10 sellers listed in Paragraph III of the Complaint hold unsecured claims that are more than or equal to the amounts alleged in the Complaint, for a total of \$259,558.00.

FINDINGS OF FACT

1. Respondent was a corporation organized and existing under the laws of the State of Texas. Its business mailing address was 4910 North Main Street, Houston, Texas 77009.
2. Pursuant to the licensing provisions of the PACA, license number 951040 was issued to Respondent on April 4, 1995. This license terminated on April 4, 1998, pursuant to section 4(a) of the PACA (7 U.S.C. § 499(a)), when Respondent failed to pay the required annual renewal fee.
3. Respondent, during the period September 1997 through March 1998 failed to make full payment promptly to 10 sellers of the agreed purchase prices in the total amount of \$181,093.38 for 78 lots of perishable agricultural commodities, which it purchased, received and accepted in interstate and foreign commerce.

CONCLUSIONS

Respondent failed to make payment for purchases of produce, as set forth in Finding of Fact 3 (above). Respondent's failure to make full payment constitutes willful, flagrant and repeated violations of Section 2(4) of the PACA (7 U.S.C. § 499b(4)). Accordingly, the following Order is issued.

ORDER

Respondent has committed willful, flagrant and repeated violations of Section 2(4) of the Act (7 U.S.C. § 499b(4)), and the facts and circumstances set forth above, shall be published.

This order shall take effect on the eleventh day after this Decision becomes final.

Pursuant to the Rules of Practice governing procedures under the PACA, this Decision will become final without further proceedings 35 days after service hereof, unless appealed to the Secretary by a party to the proceeding within 30 days after service as provided in Sections 1.139 and 1.145 of the Rules of Practice (7 C.F.R. § 1.139 and 1.145).

Done at Washington, D.C.

This 6 day of August, 2002. *JSC*

Jill A. Clyde
Administrative Law Judge